

No. 6740

**NETHERLANDS
and
CHILE**

**Agreement (with annexes) relating to air services. Signed
at Santiago, on 13 July 1962**

Official texts : Dutch and Spanish.

Registered by the International Civil Aviation Organization on 15 May 1963.

**PAYS-BAS
et
CHILI**

**Accord (avec annexes) relatif aux services aériens. Signé à
Santiago, le 13 juillet 1962**

Textes officiels néerlandais et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 15 mai 1963.

[TRANSLATION — TRADUCTION]

No. 6740. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE REPUBLIC OF CHILE RELATING TO AIR SERVICES. SIGNED AT SANTIAGO, ON 13 JULY 1962

The Government of the Kingdom of the Netherlands and the Government of the Republic of Chile, hereinafter referred to as the Contracting Parties,

Desiring to conclude an agreement for the purpose of establishing and operating commercial air services between their respective territories,

Have agreed as follows :

Article I

Each Contracting Party grants to the other the rights specified in this Agreement and the annexes thereto for the purpose of establishing scheduled international commercial air services, hereinafter referred to as the "agreed services", on the routes indicated in annex B, hereinafter referred to as the "specified routes".

Article II

1. Each of the agreed services may be inaugurated as soon as the Contracting Party to which the rights are granted has designated one or more of its national airlines to operate on one or more of the specified routes.

2. The other Contracting Party shall be required to grant the appropriate operating permit without delay to the designated airline or airlines, provided the designated airline or airlines fulfils or fulfil the conditions prescribed under its laws and regulations which normally govern the granting of permits for international air transport services.

Article III

In order to prevent discriminatory practices and to ensure equality of treatment, the Contracting Parties agree that :

(a) Each Contracting Party may impose or permit to be imposed fair and reasonable charges for the use of its public airports and other installations under

¹ Applied from 13 July 1962, the date of signature, in accordance with the provisions of article XIV.

its control or authority. Each Contracting Party undertakes, however, that such charges shall not be higher than those paid for the use of such airports and installations by its national aircraft engaged in similar international services ;

(b) Fuel, oils, lubricants and spare parts, regular equipment and aircraft stores which are introduced into or taken on board in the territory of one Contracting Party by or on behalf of the designated airlines of the other Contracting Party, solely for use by their aircraft, shall, with respect to customs duties, inspection fees and other national duties or charges imposed by the other Contracting Party, into whose territory they are introduced or in whose territory they are taken on board, be accorded the same treatment as that applying to that Party's own international airlines or to those of the most favoured nation. The Contracting Party concerned shall have the right to require that such articles be kept under the supervision of the customs authorities ;

(c) The aircraft which are used in the operation of the agreed services and the fuel, oils, lubricants and spare parts, regular equipment and aircraft stores remaining on board aircraft of the airlines of either Contracting Party, which are designated to operate on the specified routes, shall be exempt, on entry into or departure from the territory of the other Contracting Party, from customs duties, inspection fees or other similar duties or charges, even though such supplies are used or consumed by aircraft on flights over that territory ;

(d) Fuel, oils, lubricants and spare parts, regular equipment and aircraft stores, which are on board the aircraft of either Contracting Party, may be unloaded in the territory of the other Contracting Party only with the approval of the customs authorities of that territory, who shall have the right to require that such articles be placed under their supervision until such time as they are re-exported or disposed of in accordance with the customs regulations.

Article IV

1. The laws and regulations of one Contracting Party relating to the entry into, stay in and departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft within the frontiers of the said territory, shall apply to the aircraft of the airline or airlines designated by the other Contracting Party. The said aircraft shall be required to comply with the said laws and regulations, upon entry into or departure from the territory of the first Contracting Party or while within that territory.

2. The laws and regulations of each Contracting Party relating to the entry into, stay in, and departure from its territory of aircraft passengers, crews or cargo, such as those relating to entry, clearance, immigration, passports, customs and

quarantine, shall apply to the passengers, crews and cargo of aircraft operating the agreed services.

Article V

1. Each Contracting Party reserves the right to withhold an operating permit from an airline designated by the other Contracting Party or to revoke such permit :

(a) In any case where it is not satisfied that substantial ownership and effective control of that airline are vested in nationals of that Contracting Party ;

(b) If the designated airline fails to comply with the laws or regulations of the Contracting Party over whose territory it operates, in accordance with the provision of Articles II and IV of this Agreement ; and

(c) If such airline otherwise fails to fulfil the conditions subject to which the rights are granted under this Agreement and the annexes thereto.

2. In the case of revocation of a permit which has been granted, notice shall be given in writing of the proposed action, together with a statement of the reasons therefor, before action is taken under paragraph 1 of this Article. If the consultations following upon such notice do not result in agreement within sixty (60) days reckoned from the date of receipt of the notice, the revocation shall take effect.

Article VI

1. If either Contracting Party considers it necessary to modify the operating permit of an airline designated by the other Contracting Party it shall notify the other Contracting Party thereof in writing, stating the reasons therefor.

2. If the consultations following upon such notice do not result in agreement within one hundred and twenty (120) days reckoned from the date of receipt of such notification, the modification shall take effect.

Article VII

The Contracting Parties reserve the right to substitute other national airlines for the airline or airlines originally designated. All provisions of this Agreement and the annexes thereto shall apply to the newly designated airline or airlines.

Article VIII

1. If either Contracting Party considers it desirable to modify the routes or conditions specified in this Agreement it may request consultation between the aeronautical authorities of the two Contracting Parties ; such consultation shall begin within a period of sixty (60) days, reckoned from the date of the request.

2. Modifications of annex B may be made by direct agreement between the aeronautical authorities concerned and shall come into effect as soon as they are confirmed by an exchange of diplomatic notes.

3. Modifications affecting the contents of this Agreement and annex A may be agreed between the competent authorities and shall come into effect as soon as they are confirmed by an exchange of diplomatic notes stating that the formalities required under the national legislation of each Contracting Party have been complied with.

Article IX

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement and the annexes thereto which cannot be settled by consultation between them shall be referred to the Council of the International Civil Aviation Organization (ICAO) or to an arbitral tribunal appointed by the said Council, unless both Contracting Parties appoint another special arbitral tribunal.

2. The Contracting Parties undertake to comply with the decision given under paragraph 1 of this Article.

Article X

This Agreement and all agreements supplementing or amending it shall be registered with ICAO.

Article XI

Either Contracting Party may denounce this Agreement by giving notice to the other Contracting Party. Such decision shall be communicated simultaneously to ICAO. Such notice having been given, this Agreement shall terminate one year after the date on which notice was given to the other Contracting Party, unless the notice is withdrawn by mutual agreement before the expiry of the said period. If the other Contracting Party fails to acknowledge receipt of the notice, the latter shall be deemed to have been received fourteen days after it has been registered by ICAO.

Article XII

If a multilateral agreement on commercial air transport comes into force and is ratified by both Contracting Parties, this Agreement and its annexes shall be subject to the modifications consequential upon the said multilateral agreement.

Article XIII

For the purposes of this Agreement and its annexes :

(a) The expression "aeronautical authorities" shall mean :

1. In the case of the Kingdom of the Netherlands ; for the Netherlands, the Director General of Civil Aviation ; for Surinam, the Head of the Department of Civil Aviation ; and, for the Netherlands Antilles, the Minister of Traffic and Transport ; or such persons or bodies as are authorized to perform the functions assigned to the said authorities ;

2. In the case of the Republic of Chile, the Civil Aeronautics Board, or such persons or bodies as are authorized to perform the functions assigned to the said authorities ;

(b) The expression "designated airline" shall mean any airline authorized by one of the Contracting Parties to operate the agreed services on one or more of the specified routes and in respect of which written notification has been given through the diplomatic channel to the other Contracting Party in accordance with the provisions of Article II of this Agreement ;

(c) The expression "scheduled international air service" shall mean an international service which is operated by the designated airlines on the specified routes, at regular intervals and in accordance with predetermined time-tables ;

(d) The expression "change of gauge" shall mean that after a particular intermediate stop the service is provided by the same airline but with an aircraft of a capacity different from that used on the same route prior to that intermediate stop ;

(e) The expression "regional service" shall mean an international air service provided between a point in the territory of one of the Contracting Parties and one or more points situated in an adjacent country.

Article XIV

This Agreement and annex A shall be ratified in accordance with the constitutional provisions of each of the Contracting Parties and shall come into force thirty days after the exchange of the ratifications, which shall take place at Santiago de Chile. Both Contracting Parties shall endeavour, within the limits of their respective administrative powers, to apply the provisions of this Agreement as from the date of its signature.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized for the purpose by their respective Governments, have signed this Agreement, in duplicate, in the Dutch and Spanish languages, both texts being equally authentic, at Santiago de Chile on the thirteenth day of July in the year nineteen hundred and sixty-two.

For the Government of the Kingdom of the Netherlands :

(Signed) VOÛTE

For the Government of the Republic of Chile :

(Signed) C. M. SOTOMAYOR

A N N E X A

The Contracting Parties agree to the following :

I

The airlines designated by the two Contracting Parties, which operate on the specified routes, shall have fair and equal opportunity to operate the agreed services.

II

1. The designated airlines shall, in operating on the specified routes, enjoy the right to pick up and set down passengers, cargo and mail destined for or proceeding from the territory of the other Contracting Party or of third countries.

2. The Contracting Parties recognize one another's right to regulate the exercise of the fifth freedom with a view to ensuring that neither Party's regional traffic is unduly affected.

3. It is understood that such regulations shall make no distinction between the agreed services of the other Contracting Party and similar, non-regional services operated by airlines of third countries.

4. Cabotage within the territory of each Contracting Party shall be reserved to the national airlines of the Contracting Party concerned.

III

The air transport capacity offered by the airlines designated by the two Contracting Parties shall be closely related to :

(a) the traffic requirements between the country of origin and the countries of destination ;

(b) the requirements for the operation of a long-haul route ;

(c) the traffic requirements of the area through which the service is operated, regional services having been taken into account.

IV

The airlines designated by the Contracting Parties shall take their mutual interests into consideration in operating on the specified routes or common sections of those routes, so as not to affect each other's services unduly.

V

The aeronautical authorities of the Contracting Parties shall, at the request of either of them, consult together to determine whether the principles set forth in this annex are being applied by the airlines designated by the Contracting Parties.

VI

The agreed services may use any of the air routes open to international air traffic which link the points specified in annex B, provided that no discrimination is made in this regard between national and foreign airlines.

VII

1. The tariffs, reductions and exemptions applied by the airlines designated by each Contracting Party in respect of carriage to and from the territory of the other Contracting Party shall be fixed at reasonable levels, due regard being had to all relevant factors, including operating costs, reasonable profits and the characteristics of the service.

2. The tariffs referred to in paragraph 1 of this section shall be agreed by the designated airlines concerned of both Contracting Parties, in consultation with other airlines which operate on the whole or part of the route.

3. The tariffs thus agreed shall be submitted for approval to the aeronautical authorities of the Contracting Parties at least thirty (30) days before the proposed date of their introduction. In special cases this period may be reduced, subject to agreement between the said authorities.

4. If the designated airlines are unable to reach agreement on the fixing of any such tariff, or if, for any reason, a tariff cannot be fixed as provided in paragraph 2 of this section, or if the agreed tariff is not approved by the aeronautical authority concerned, as provided in paragraph 3 of this section, within a period of fifteen (15) days reckoned from the date of its submission, or if the said authority fixes a different tariff, the aeronautical authorities of the Contracting Parties shall endeavour to fix the tariffs by agreement between them.

5. If the aeronautical authorities do not reach agreement on the approval of any tariff that is submitted to them in accordance with paragraph 3 of this section, and on the fixing of any tariff in accordance with paragraph 4, the dispute shall be settled as provided in article IX of this Agreement.

6. The tariffs fixed as provided in this section shall remain in effect until new tariffs have been fixed in accordance with the provisions of this section.

VIII

Any modification of the capacity of the aircraft must be approved by the aeronautical authorities of the other Contracting Party. It shall be allowed if it is made for economic reasons, does not change the long-haul nature of the service and is compatible with the principles set forth in this Agreement and its annexes.

ANNEX B

1. The airline or airlines designated by the Government of the Republic of Chile may operate services in both directions on the following routes :

(a) From Chile, via intermediate points in South America, Central America and the Caribbean area, to the Netherlands Antilles, Surinam and beyond ;

(b) From Chile, via intermediate points in Argentina, Uruguay, Paraguay, Brazil, Ghana, Liberia, Guinea, Senegal, Las Palmas, Morocco and intermediate points in Europe, to Amsterdam and beyond ; and

(c) From Chile, via intermediate points in Peru, Ecuador, Panama, Colombia, Venezuela, the Caribbean area, the Netherlands Antilles, Surinam, the Azores and intermediate points in Europe, to Amsterdam and beyond.

2. The airline or airlines designated by the Government of the Kingdom of the Netherlands may operate services in both directions on the following routes :

(a) From the Netherlands, via intermediate points in Europe, Morocco, Las Palmas, Senegal, Guinea, Liberia, Ghana, Brazil, Paraguay, Uruguay and Argentina, to Santiago de Chile ; and

(b) From the Netherlands, via intermediate points in Europe, the Azores, Surinam, the Netherlands Antilles, intermediate points in the Caribbean area, Venezuela, Colombia, Panama, Ecuador and Peru, to Santiago de Chile.

3. On each of the prescribed routes one or more of the intermediate points specified may be omitted, with the exception of the landings in Surinam or in the Netherlands Antilles included in the route specified in section 2, paragraph (b), of this annex, one of which must be effected by the airline designated for the said route.

4. The route specified in section 2, paragraph (b), of this annex may be operated only by one airline designated by the Government of the Kingdom of the Netherlands.
